

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARK H. BAKER,

Petitioner,

Civil No. 03-1269-AS

v.

ORDER

TONY SANTOS, Superintendent, Eastern Oregon
Correctional Institution,

Respondent.

HAGGERTY, Chief Judge:

On October 14, 2005, Magistrate Judge Ashmanskas issued a Findings and Recommendation [54] recommending that petitioner's Motion for Leave to Expand the Record [44] should be GRANTED, but that petitioner's Petition for Writ of Habeas Corpus [2] should nevertheless be DENIED. Petitioner filed timely objections to the Findings and Recommendation [55].

This matter is now before the court pursuant to 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). A district court "may accept, reject, or modify, in whole or in part, the findings or

recommendations" made by a Magistrate Judge. 28 U.S.C. § 636(b)(1). When a party objects to any portion of the Magistrate Judge's Findings and Recommendation, the district court must make a *de novo* determination of that portion of the Findings and Recommendation. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v. Commodore Bus. Mach.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

The court has given the record a *de novo* review. Magistrate Judge Ashmanskas' reasoning and recommendations are sound, correct, and entitled to adoption. Petitioner's objections fail to establish that equitable tolling should be involved under the circumstances presented in this case.

CONCLUSION

The Magistrate Judge's Findings and Recommendation [54] is ADOPTED in its entirety. Accordingly, Petitioner's Motion for Leave to Expand the Record [44] is GRANTED, but petitioner's Petition for Writ of Habeas Corpus [2] is DENIED.

IT IS SO ORDERED.

Dated this 13 day of March, 2006.

/s/ Ancer L. Haggerty

Ancer L. Haggerty
United States District Judge